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| APPLICATION NO.                | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.   | CONFIRMATION NO. |
|--------------------------------|-------------|----------------------|-----------------------|------------------|
| 10/080,888                     | 02/22/2002  | Denise Crites Tears  | 16,870A               | 9388             |
| 23556                          | 7590        | 06/29/2004           | EXAMINER              |                  |
| KIMBERLY-CLARK WORLDWIDE, INC. |             |                      | ANDERSON, CATHARINE L |                  |
| 401 NORTH LAKE STREET          |             |                      | ART UNIT              |                  |
| NEENAH, WI 54956               |             |                      | PAPER NUMBER          |                  |
|                                |             |                      | 3761                  |                  |
| DATE MAILED: 06/29/2004        |             |                      |                       |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/080,888

Applicant(s)

TEARS ET AL.

Examiner

C. Lynne Anderson

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-23 is/are allowed.
- 6) ☒ Claim(s) 1, 8 and 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/4/02, 7/24/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: IDS Mail Date 7/28/03.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Roberts et al. (5,649,917).

Roberts discloses an absorbent article 210, as shown in figure 10, comprising a liquid permeable bodyside cover 214, a liquid permeable garment side liner 230, and an absorbent core 216 enclosed therebetween. The cover 214 and liner 230 extend laterally outward and are joined together to form a pair of fringes 224 which are capable of being biased upward to form a pair of upstanding side walls, as shown in figure 10. The upstanding side walls form a pair of reservoirs 256 adjacent the absorbent core 216, as shown in figure 10, which are fully capable of retaining body fluid.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts et al. (5,649,917).

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Roberts discloses all aspects of the claimed invention with the exception of an impediment layer of adhesive positioned between the absorbent core and the garment side liner. Roberts discloses in column 4, lines 46-49, the use of an adhesive layer positioned between the absorbent core 216 and the bodyside cover 214, and in column 14, lines 15-17, the use of an adhesive layer positioned between the absorbent core 216 and the backsheet 218. Roberts remains silent as to the means of attachment of the absorbent core 216 to the garment side liner 230 in the embodiment shown in figure 10 wherein the garment side liner 230 is positioned between the absorbent core 216. Roberts discloses the use of an adhesive layer as a suitable means for attaching the absorbent core to the layers located immediately above and below, and therefore it would be obvious to one of ordinary skill in the art at the time of invention to position a layer of adhesive between the absorbent core and the garment side liner to provide suitable attachment of the absorbent core to the layer directly below it.

***Allowable Subject Matter***

Claims 10-23 are allowed.

Claims 2-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to disclose the claimed invention. Specifically, the prior art of record fails to disclose an article having a liquid permeable bodyside cover and a liquid permeable garment side liner enclosing an absorbent core, the liquid

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permeable cover and liner having equal liquid permeability or being formed from the same material, in combination with the liquid permeable cover and liner extending laterally outward to form a pair of fringes.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 6,689,113 discloses an articles having a liquid permeable cover and liner that extend outward beyond the absorbent core.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cla

  
JOHN CALVERT  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

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June 21, 2004